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EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,236

Applicant(s)

PINCUS, DAVID

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Examiner's Response

1. In response to applicant's amendment filed 4-19-04, all the amendments to the specification and claims have been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

Claim Rejections - 35 USC § 102 & 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-6, 8-18 and 20-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood (US 5894266).

In reference to claim 1, Wood teaches of a wireless communication system as shown in Figs. 5 and 6 that has a programmable interface (14) coupleable between a device (90, 92, 94 attached through ports 84, or 86) and a transmitter (64, or 54), with interface operable to receive device data from the device (90 or 92) and to provide user-configurable device data to the transmitter. Wood teaches of a programming station (10) as shown in Fig 1 selectively coupleable (through interrogator 12) to the interface to enable a user to program the interface (14) to provide the user-configurable device data to the

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transmitter such as sending GPS data associated with device data (Col 2, lines 25-40). Although multiple sensors (88,90,92) are included in Wood, they are all directed to the condition of a common device, the delivery truck. Clearly, GPS data from sensor/receiver 88 is provides location data directed to the location of the truck and all corresponding devices.

Configuration interface ports is included in col. 9 lines 29-32. Further, col. 7 lines 60-64 includes configuration of parameters such as protocol of a modem or transmitter to communicate device data to an external host 10.

In reference to claim 2, Wood teaches claim 1 as above. Wood also teaches that his intelligent communication device can selectively collect device operational data (Col 9, lines 33-37).

In reference to claim 3, Wood teaches claim 1 as above. Wood also teaches that data is received at periodic time intervals through configuration of time duration and operation of wake up circuitry (Col 7, lines 39-40).

In reference to claim 4, Wood teaches claim 3 as above. Wood also teaches that device data passed to the intelligent communication device control the operation of the periodic interval through the use of wake up circuitry (Col 7, lines 30-40).

In reference to claim 5, Wood teaches claim 1 as above. Wood also teaches that intelligent communication device (14) processes operational data, such as the process of timed collection as shown in claim 4, in response to programming provided by programming station (10).

In reference to claim 6, Wood teaches claim 5 as above. Wood also teaches the use of a Micron Microstamp™ device such as the one described in patent US 6130602 A by O'Toole for use as the intelligent communication device, which contains memory, algorithmic logic units, and control registers for performing control functions such as that of addition or accumulation (Col 4, lines 25-31).

In reference to claim 8, Wood teaches claim 1 as above. Wood also teaches the use of a computer system (10). In reference to claim 9, Wood teaches claim 8 as above. Wood also teaches the use of a cell controller (52) and antenna (Col 5, lines 37-43).

In reference to claim 10, Wood teaches claim 9 as above. Wood also teaches that the cell controller (52) is attached (50) to computer system (10).

In reference to claim 11, Wood teaches claim 1 as above. Wood also teaches the use of a transceiver (66, 72). Wood's transceiver attached to a microprocessor was reasonably read to

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correspond to applicant's transponder since a transponder contains all the functionality of a transceiver (bi-directional communication) but is programmed to respond to a query signal, of which Wood's system exhibits.

In reference to claim 12, Wood teaches the use of an interface for a wireless communication system (14), wherein the interface receives operational data from data ports (84, 86) and provides a second set of data to be transmitted wherein the second set of data is configurable. Wood's ability to set the wake up period for the collection of data was reasonably read to correspond to customizing the second set of data from a continuous stream to periodic, with the ability to set the period (Col 7, lines 30-40).

In reference to claims 13 and 14, Wood teaches claim 12 as above. Wood also teaches that the interface is operable to process incoming data and transmit at least some of the processed data, and programming the interface to direct the operation of the interface, such as Wood's ability to make a comparative threshold test against user-supplied data and device-supplied data and transmit output indicative of test results (Col 10, lines 4-9).

In reference to claims 15 and 16, Wood teaches claim 14 as above. Wood teaches as shown in Figs 1 and 6, that the

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interface (14) is coupleable to a programming station (10), the programming station (10) being operable to provide the interface (14) with programming to enable the interface to communicate with the device (90, 92) using a first communication protocol such as programmed reference voltages (96) or analog-to-digital converter (98) and with the transmitter using a second communication protocol such as RS-232 protocol (Col 7, lines 44-47) for a modem (54). Wood also teaches that micro-controller (60) of interface (14) can be programmed at will to interface a different device or more than one device by selectively enabling the interfaces with command and configuration data (Col 9, lines 33-37).

In reference to claim 17, Wood teaches claim 12 as above. Wood also teaches that collected interface data comprises device-operating data as described in claim 2.

In reference to claim 18, Wood teaches claim 17 as above. Wood also teaches that interface is operable for user to select desired device data to be transmitted as described in claim 2. In reference to claim 20, Wood teaches claim 12 as above. Wood also teaches of an electrical connector such as a RS-232 data interface (Col 5 lines 34-42) for mating with electrical connector (another RS-232 data interface) coupled to programming system for either local or remote connection.

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In reference to claim 21, Wood teaches claim 20 as above. Wood also teaches the interface has second electrical connector (84) for engagement with a connector coupled to the device. In reference to claim 22, Wood teaches claim 12 as above. Wood also teaches the use of a transponder as described in claim 11 above.

In reference to claim 23, Wood teaches claim 21 as above. Wood also teaches of a third electrical connector such as a RS-232 data interface for engagement with a transmitter such as a cellular modem (Col 5, lines 34-42).

In reference to claim 24, Wood teaches a method of operating a wireless communication system to enable a user to configure device data communicated by transmitter coupled to a device, that comprise; Connecting the interface to programming station operated by a user as in claim 20 above, Operating programming station to program interface to provide user selected data to the transmitter as in claim 5 above, Coupling the interface between device and transmitter as in claim 23 above.

In reference to claim 25, Wood teaches claim 24 as above. Wood also teaches of transmitting a unique identifier for the transmitter with data from the device (Col 1, lines 10-13).

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In reference to claim 26, Wood teaches claim 24 as above. Wood teaches of a method for configuring intelligent communication device through the transmittal of configuration data over RF as to cause the device to change its method of operation according to configuration data (Col 3, lines 60-65).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US 5894266) in view of Vollmann (US 4561442).

In reference to claim 27, Wood teaches of a method for operating a wireless communication system to enable a user to configure data communicated from a medical asset by a transmitter, comprising; Connecting interface to programming station operated by a user as in claim 20 above, Operating programming station to program interface to provide user selected data from the medical asset to the transmitter as in claim 5 above, Coupling the interface between medical device and transmitter as in claim 23 above. It is noted that medical assets are a subset of all devices described by Wood's apparatus and method for remote monitoring and thus included. Wood differs from claim 27 by not disclosing programming the interface "cumulative total of a selected device parameter" to the transmitter.

Vollmann discloses a programmable medical interface that interfaces between a medical device (pacer) over lead 14 and telemetry transmitter/transponder 30 in fig. 1 and col. 6 lines 15-60. Vollmann disclosing programming the interface "cumulative total of a selected device parameter" to the transmitter in col. 3 lines 340-48 and col. 4 lines 15-31 and col. 28 lines 51-60. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Wood the programming the interface "cumulative total of a selected device parameter" to the transmitter disclosed by Vollmann in order to allow selective collection of history data to allow observation of how well a device is working and is suggested by col. 10 line 34 of Wood discussing accumulated data.

In reference to claim 28, Wood teaches claim 27 as above. Wood also teaches of transmitting a unique identifier for the transmitter with data from the device (Col 1, lines 10-13).

In reference to claim 29, Wood teaches claim 27 as above. Wood also teaches of a method for configuring intelligent communication device through the transmittal of configuration data over RF as to cause the device to change its method of operation according to configuration data (Col 3, lines 60-65).

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In reference to claim 30, Wood teaches claim 27 as above. Wood also teaches of operating the programming station to establish an interval that the medical asset parameter is monitored by the programmable interface (Col 7, lines 30-40). 30).

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US 5894266). Wood teaches claim 6 as above under 35 U.S.C. 102(b). Wood remains silent as to the manipulation of data stored on the device such as erasing or resetting. One of ordinary skill in the art at the time of invention would have recognized the need to clear, reset, erase, or otherwise invalidate the data contained in the programmable RFID because eventually the finite memory would be filled with data and then the RFID would be rendered useless or output erroneous data. It would have been obvious to one skilled in the art at the time of invention to read/reset collected device data because the programmable micro-controller disclosed by Wood has the capability to read and write to memory, instructions for operating the controller, and a need exist to manipulate the data collected as necessary in order to ensure useful operation.

6. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US 5894266). Wood teaches claim 12 as above under 35 U.S.C. 102(b). Wood also teaches the use of a

Micron Microstamp™ device such as the one described in patent US 6130602 A by O'Toole for use as the intelligent communication device, which contains memory, algorithmic logic units, and control registers for performing control functions such as that of addition or accumulation (Col 4, lines 25-31). Wood remains silent as to the exact device data transmitted by the interface. Wood does teach of using second-party programs for compiling collected data into a manageable form (Col 10, lines 33-44). Wood discloses a need for analysis of collected data and one of ordinary skill in the art at the time of invention would have also recognized the need to collect operational data in such a fashion as to be pertinent to the tracking of the device of interest. It would have been obvious to one skilled in the art at the time of invention to transmit as necessary, data useful to the user of such a monitoring device such as an ongoing count.

It is noticed that O'Toole's patent, US 6130602 A, incorporated into Wood's patent by reference on page 6 lines 63-64, describes the intelligent communication device fully with reference on how to set the periodic polling of external sensor devices through the use of wake and sleep signals of which can be set anywhere from 1 second to 255 seconds (8bits) in 1 second increments. Additionally, the microprocessor described in the

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Wood patent is capable of doing addition, among other tasks (Col 47, lines -16; Col 51, lines 15-27; Col 52, lines 41-42).

Response to Arguments

7. Applicant's arguments filed 4-19-01 have been fully considered but they are not persuasive.

The argument that the data in Wood is not user configurable device data because the GPS data is from a separate device is not persuasive because the claims do not specify that the device data and the user configurable device data are from the same device. The claims do not specify a relationship between the device data and the user configurable device data. Although multiple sensors (88,90,92) are included in Wood, they are all directed to the condition of a common device, the delivery truck. Clearly, GPS data from sensor/receiver 88 provides location data directed to the location of the truck and all corresponding devices. Configuration interface ports is included in col. 9 lines 29-32. Further, col. 7 lines 60-64 includes configuration of parameters such as protocol of a modem or transmitter to communicate device data to host 10. The argument that it is improper to use the teachings of O'Toole (US 6130602) in the invention of Wood is incorrect because col. 6 line 63-64 incorporate by reference the disclosure of US Ser. No. 08/705,043 that became the O'Toole patent. Further,

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multiple reference 102 rejections are proper as stated in MPEP 2131.01 to explain the meaning of a term in the primary reference and/or to show inherent characteristics.

8. Applicant's arguments with respect to claim 27-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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CONTACT INFORMATION


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at ebc@uspto.gov. The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (703) 305-4700 or TC 2600 Customer Service at (703) 306-0377.

Facsimile submissions may be sent via fax number (703) 872-9306 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH
6/28/04


EDWIN C. HOLLOWAY, III
PRIMARY EXAMINER
ART UNIT 2635